

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

AARON POLK and DILLON SMITH,
Plaintiff,

VS.

**CRETE CARRIER CORPORATION
and KENES LAJEUNESSE,**
Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 6:17-CV-122

DEFENDANTS' NOTICE OF REMOVAL

NOW COMES CRETE CARRIER CORPORATION and KENES LAJEUNESSE, Defendants herein, and file this Notice of Removal, removing this case to federal court under 28 U.S.C. §§ 1332 and 1441(a), and in support there of, would show as follows:

I.

Introduction

1. Plaintiffs are Aaron Polk and Dillon Smith (hereinafter "Plaintiffs"). The Defendants are the CRETE CARRIER CORPORATION and KENES LAJEUNESSE WETZER (hereinafter the "Defendants").

2. Plaintiffs filed this lawsuit seeking recovery for personal injury allegedly sustained in an automobile accident with Defendant Lajeunesse, allegedly driving for Defendant Crete Carrier.

3. Plaintiff filed this suit in the 169th Judicial District, Bell County, Texas, regarding the above described claims.

II.

Basis for Removal

4. Removal is proper under 28 U.S.C. §§ 1332 because the amount in controversy exceeds the sum of \$75,000, exclusive of interest and cost and there is complete diversity of citizenship amongst the parties.

5. Plaintiff, AARON POLK is an individual who was a resident of Bell County, Texas, at the time of the events made the basis of this suit, indicating he is a citizen of the State of Texas. (Plaintiff's Petition, p. 1).

6. Plaintiff, DILLON SMTIH, is an individual who was a resident of Coryell County, Texas, at the time of the events made the basis of this suit. (Plaintiff's Petition, p. 1).

7. Defendant, CRETE CARRIER CORPORATION is a foreign for-profit corporation (Plaintiff's Petition, p. 1; Ex. A). Specifically, Crete Carrier is organized and exists under the laws of the State of Nebraska and maintains its principal office in Nebraska.

8. Defendant, KENES LAJEUNESSE, is a resident of Orange Park, Florida at the time of the events made basis of this suit, is currently a Florida resident, and is a citizen of the State of Florida (Plaintiff's Petition, p. 2; Ex. B).

9. In Paragraph 7 of Plaintiff's Original Petition and Application for Temporary Restraining Order, Temporary Injunction, and Permanent Injunction, Plaintiff states that it is seeking, "monetary relief of over \$1,000,000," (Plaintiff's Petition, p. 2) establishing that the amount in controversy is in excess of the \$75,000 threshold for removal. 28 U.S.C. § 1446(c)(2) (stating that the sum demanded in the pleadings shall be deemed to be the amount in controversy); *see S.W.S. Erectors Inc. v. Infax Inc.*, 72 F.3d 489, 492 (5th Cir. 1996) (removing defendant may rely on Plaintiff's pleadings for facts to support removal).

10. This removal is timely, in that it is filed within thirty (30) days after service of a pleading stating a removeable case. *See 28 U.S.C. § 1446(b) 130 days to remove case*; *Murphy Bros. Inc. v. Michetti Pipe Strongling Inc.*, 526 U.S. 344, 347-48 (1999) (discussing when 30 days begins).

11. Copies of all pleadings, process, orders, and other filings served upon the Defendants in the state-court suit are attached to this notice as Exhibit C as required by 28 U.S.C. §1446(a).

12. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending, the 169th Judicial District Court, Bell County, Texas, is located in this district.

13. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

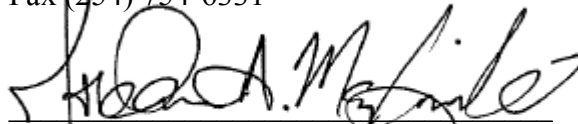
III.

Conclusion

14. There is diversity jurisdiction over Plaintiff's claims, making removal of this case proper and Defendant hereby removes this case to this Court.

Respectfully submitted,

NAMAN, HOWELL, SMITH & LEE, PLLC
P. O. Box 1470
Waco, Texas 76703-1470
(254) 755-4100
Fax (254) 754-6331



JORDAN A. MAYFIELD
State Bar No. 24037051
mayfield@namanhowell.com

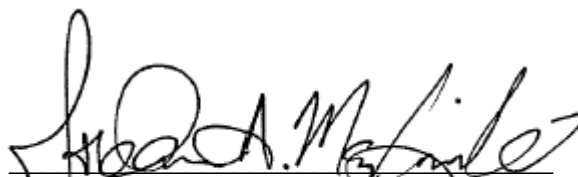
ROBERT LITTLE
State Bar No. 24050940
little@namanhowell.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing instrument was served upon Plaintiff's attorney of record by electronic delivery on this 5th day of May, 2017.

Marc-Anthony P. Hanna
THE CARLSON LAW FIRM P.C.
100 E. Central Tx Expressway
Killeen, Texas 76541
mhanna@carlsonattorneys.com



Jordan A. Mayfield